

# SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1923.

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No. 301.

THE UNITED STATES OF AMERICA

vs.

STEAMSHIP "COAMO," HER ENGINES, ETC., NEW YORK  
& PORTO RICO STEAMSHIP COMPANY, CLAIMANT.

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ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF  
APPEALS FOR THE SECOND CIRCUIT.

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## 1 United States Circuit Court of Appeals for the Second Circuit.

UNITED STATES, LIBELLANT-APPELLANT,  
VS.

STEAMSHIP "COAMO," HER ENGINES, &C., NEW YORK & PORTO RICO  
STEAMSHIP COMPANY, CLAIMANT-APPELLEE.

This cause came here by appeal from a final decree in Admiralty entered in the District Court for the Southern District of New York.

On 7th February, 1918, the United States filed a libel in rem against S. S. "Coamo," setting forth in substance:

That on or about 7th May, 1917, the "Coamo" arrived at the port of New York and brought aboard her to said port and into the United States two named aliens, to wit, Charles Esdaille and William Levine. That on or about the date last above stated the Commissioner of Immigration at the port of New York duly notified in writing an officer or agent of said S. S. "Coamo," to wit, one Horgan, the purser of said vessel, that said aliens should be delivered at the

2 United States Immigrant Station at Ellis Island, that being the place designated for such delivery by the immigration officers at said port.

That the owners, officers, and agents of said S. S. "Coamo" failed to prevent the landing of said two aliens at a place other than said Ellis Island, and failed to deliver said aliens or either of them at said immigrant station "in violation of the statute of the United States in such case made and provided, viz, act of February 5, 1917, sec. 10 (39 Stat. 881)."

That by reason of the premises  
"the said steamship became and is liable for payment to the United States of a penalty in the sum of (two) thousand dollars, no part of which has been paid, and may be libelled therefor in the appropriate United States court. That this cause by way of libel has been brought by direction of the Secretary of Labor of the United States."

At trial libellant proved the above recited allegations of fact, to wit, the arrival of the steamship at New York with said aliens on board, the giving of notice by the Commissioner of Immigration as alleged, and the fact that said aliens were not delivered pursuant to said notice.

Thereupon libellant demanded as of right a decree for \$2,000, to wit, a penalty of \$1,000 for each alien. This demand the District Court refused, holding that it had discretion as to the amount of the penalty, and therefore imposed a penalty of \$200 in respect of each alien and entered final decree for \$400 and costs.

Whereupon the libellant took this appeal, assigning for  
3 error that the District Court "erred in not awarding to libellant the sum of \$2,000."

*Question certified.*

When a libel in rem is filed against any vessel under the circumstances set forth in section 10 of the act to regulate the immigration of aliens, passed February 5, 1917, and violation of that section of the statute is proven—is the trial court bound as matter of law to pass a decree condemning said vessel for a penalty of exactly \$1,000, neither more nor less, for each alien landing from said vessel in violation of said section of said statute?

In accordance with the provisions of section 239 U. S. Judicial Code, the foregoing question of law is by the Circuit Court of Appeals of the United States for the Second Circuit hereby certified to the Supreme Court.

CHARLES M. HOUGH,  
U. S. C. J.  
MARTIN T. MANTON,  
U. S. C. J.  
JULIUS M. MAYER,  
U. S. C. J.

Dated New York City, March 30, 1922.

4 United States Circuit Court of Appeals for the Second Circuit.

UNITED STATES OF AMERICA,  
*Southern District of New York, ss:*

I, William Parkin, clerk of the United States Circuit Court of Appeals for the Second Circuit, do hereby certify that the foregoing certificate and statement of facts in the case of United States against steamship "Coamo" was duly filed and entered of record in my office by order of said court, and as directed by said court, the said certificate is by me forwarded to the Supreme Court of the United States for its action thereon.

In witness whereof I have hereunto subscribed by name and affixed the seal of said court, at the City of New York, this 31st day of March, 1922.

[SEAL.]

WM. PARKIN,  
*Clerk of the United States Circuit Court  
of Appeals for the Second Circuit.*

(Indorsed on cover:) File No. 29,563. U. S. Circuit Court of Appeals, Second Circuit. Term No. 301. The United States of America vs. Steamship "Coamo," her engines, etc., New York & Porto Rico Steamship Company, claimant. Filed April 19th, 1923. File No. 29,563.